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FEB 07 2013

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

James N. Hatten, Clerk
By: Deputy Clerk

ROE T. HODGE,

Plaintiff,

v.

GREEN SENSE, LLC,

Defendant.

)
)
) **3 13-CV-023**
)

CIVIL ACTION NO. _____

COMPLAINT

I. INTRODUCTION

1. Plaintiff, ROE T. HODGE, files this action to remedy the failure of Defendant, GREEN SENSE, LLC., to pay overtime wages as required by the Fair Labor Standards Act (FLSA) 29 U.S.C. § 201, *et seq.*
2. Plaintiff seeks unpaid wages, liquidated damages, costs and attorney's fees as well as declaratory relief under FLSA.

II. JURISDICTION

3. Jurisdiction is conferred upon this Court by 29 U.S.C. § 216(b) of the Fair Labor Standards Act, by 28 U.S.C. § 1331, this action arising under the laws

of the United States, and by 28 U.S.C. § 1331, this action arising under Acts of Congress regulating commerce.

4. Jurisdiction over Plaintiff's claims for declaratory relief is conferred by 28 U.S.C. §§ 2201 and 2202.

III. VENUE

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).
6. Upon information and belief, Defendant GREEN SENSE, LLC., resides in this district.
7. Defendant is headquartered in this district.
8. Plaintiff labored for Defendant in this district.
9. The cause of action set forth in this Complaint arose in this district.

IV. PARTIES

10. Plaintiff HODGE resides in Dallas, Georgia and worked for Defendant as a warehouse/shipping manager at its Villa Rica, Georgia location.
11. Defendant GREEN SENSE, LLC. is a corporation formed under the laws of the State of Georgia, and who has a place of business in Villa Rica, Carroll County, Georgia 30180.
12. Defendant may be served with process through its registered agent, Melissa Crumbley, 117 Tri County Plaza, Villa Rica GA 30180.

13. Defendant operates recycling facilities which offer recyclable material hauling and logistics, recyclable/scrap metal brokering, and recycling and sustainability program consulting.
14. Defendant is an enterprise engaged in commerce for purposes of the Fair Labor Standards Act.
15. All actions and/or omissions described in this Complaint were made by Defendant directly or through its supervisory employees and agents.

V. FACTS

16. Plaintiff HODGE was employed by Defendant GREEN SENSE, LLC. as a logistics/shipping manager.
17. During his employment with Defendant, Plaintiff was paid for his work by the hour until May, 2010, when he began being paid a weekly salary.
During this period of employment, Defendant failed to pay Plaintiff time and one half premium pay for his overtime hours worked.
18. Plaintiff did not possess the authority to hire or fire other employees.
19. Plaintiff lacked the authority to participate in the recommendation for hiring and termination decisions.

20. Plaintiff possessed no independent discretion in the pricing or discounting of Defendant's products and services and had no authority to discuss these matters with customers.
21. Plaintiff regularly worked more than 40 hours per week for Defendant.
22. Between January 1, 2010, and July 7, 2011, Defendant did not compensate Plaintiff for the time he worked in excess of 40 hours per week on a basis of one and one-half times the regular rate of pay.
23. Plaintiff was not exempt from overtime under FLSA.
24. Defendant is liable to Plaintiff for compensation for any and all hours worked in excess of 40 hours per week at the rate of at least one and one-half times Plaintiff's regular rate of pay.

V. CAUSE OF ACTION

COUNT 1 (FAIR LABOR STANDARDS ACT)

26. Defendant failed to pay overtime wages to Plaintiff in violation of the Fair Labor Standards Act (FLSA) 29 U.S.C. § 201, *et seq.* and its implementing regulations.
27. Defendant's failure to pay proper wages for each hour worked over 40 hours per week was intentional, willful, and/or reckless within the meaning of the FLSA.

28. Defendant's failure to comply with the FLSA overtime protections caused Plaintiff to suffer loss of wages and interest thereon.

PRAYER FOR RELIEF

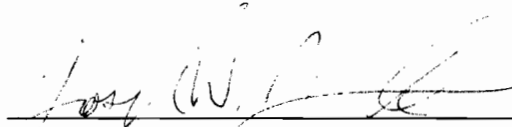
WHEREFORE, Plaintiff prays that this Court enter an order:

1. Declaring that Defendant violates the Fair Labor Standards Act 29 U.S.C. § 201, *et seq.*;
2. Declaring that Defendant's violations of the Fair Labor Standards Act 29 U.S.C. § 201, *et seq.*; were intentional, willful, and/or reckless;
3. Granting judgment to Plaintiff for his claim of unpaid wages as secured by the Fair Labor Standards Act 29 U.S.C. § 201, *et seq.*, as well as liquidated damages;
4. Awarding Plaintiff his costs and reasonable attorneys' fees;
5. Granting any and all further relief as this Court deems just and proper.

This 6th day of February, 2013.



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CERTIFICATE OF FONT SIZE

Counsel for Plaintiff certifies that the font and point size used in this Complaint

– Times New Roman; 14 point – are in compliance with Local Rule 5.1B.

s/Christopher B. Scott

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